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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/827,303	04/20/2004	Gabriel Charlet	Q80975	2577
23373 7	7590 11/22/2005		EXAM	IINER
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800			HELLNER, MARK	
			ART UNIT	PAPER NUMBER
WASHINGTON, DC 20037			3663	
			DATE MAILED: 11/22/200	5

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Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)				
	10/827,303	CHARLET ET AL.				
Office Action Summary	Examiner	Art Unit				
	Mark Hellner	3663				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply						
 A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 						
Status						
1) Responsive to communication(s) filed on						
	action is non-final.					
3) Since this application is in condition for alloward	3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.						
Disposition of Claims						
4) Claim(s) <u>1-8</u> is/are pending in the application.						
4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.						
6)⊠ Claim(s) <u>1-5,7 and 8</u> is/are rejected.						
7)⊠ Claim(s) <u>6</u> is/are objected to.						
8) Claim(s) are subject to restriction and/or election requirement.						
Application Papers						
9) The specification is objected to by the Examiner.						
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.						
Applicant may not request that any objection to the	drawing(s) be held in abeyance. See	e 37 CFR 1.85(a).				
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
11) The oath or declaration is objected to by the Ex	caminer. Note the attached Office	Action or form PTO-152.				
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).						
a)⊠ All b)⊡ Some * c)⊡ None of:						
1. Certified copies of the priority documents have been received.						
2. Certified copies of the priority documents have been received in Application No						
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).						
* See the attached detailed Office action for a list of the certified copies not received.						
See the attached detailed Once action for a list of the certified topies not received.						
Attachment(s)						
1) X Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413)						
2) □ Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date 3) ☑ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 5) □ Notice of Informal Patent Application (PTO-152)						
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>+1/こ</u> 9/2004	6) 🗌 Other:					
U.S. Patent and Trademark Office						

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Drawings

The drawings are objected to because the text for figure 2, element 34 did not copy clearly. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 4, 7 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated

by Lelic et al (6,535,330).

Leleic et al disclose an optical amplifier comprising: first (11) and second (15)

optically pumped signal light amplification stages; a tilt controller (20) linked to a control

unit (22); an optical monitor (41 and 43) analyzing signal powers; wherein the amplified

spontaneous emission of the optical amplifier is measured at two extreme wavelengths

of the signal band to derive control signals for the tilt controller (see column 4, lines 25-

30).

The structure recited above reads on claim 1.

Claim 2 is taught by element (20).

Claim 4 is taught by column 3, lines 15-40.

Claim 7 is taught by column 1, line 15.

Claim 8 is taught by the operation of the structure applied to claim 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Lelic et al.

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Claim 3 would have been obvious in view of the long recognized fact that a variable attenuation slope compensator falls into the category of a variable optical attenuator and, as such, would have been suggested by element (20) of Lelic et al.

Claim 5 would have been obvious because the interchanging of erbium and Raman fiber was well recognized at the time of the present application.

Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication should be directed to Mark Hellner at telephone number 571 272 6981.

Mark Hellner

Primary Examiner

AU 3663

Mark Hellen